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1 recommendation relieves the Court of conducting *de novo* review of the Magistrate Judge's  
2 factual findings and waives all objections to those findings on appeal. See Turner v. Duncan,  
3 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a Magistrate Judge's conclusion "is  
4 a factor to be weighed in considering the propriety of finding waiver of an issue on appeal."  
5 Id.

### 6 DISCUSSION

7 Having reviewed the Report and Recommendation of the Magistrate Judge, and no  
8 Objections having been made by any party thereto, the Court hereby incorporates and adopts  
9 the Magistrate Judge's Report and Recommendation. The Court construes Petitioner's  
10 Petition for Writ of Habeas Corpus as a civil rights complaint pursuant to 42 U.S.C. § 1983  
11 and dismisses the complaint with prejudice for failure to state a claim upon which relief can  
12 be granted pursuant to 28 U.S.C. § 1915A (id.).

### 13 CONCLUSION

14 For the reasons set forth,

15 **IT IS HEREBY ORDERED** that the Court adopts the Report and Recommendation  
16 of the Magistrate Judge (Doc. 21).

17 **IT IS FURTHER ORDERED** that Petitioner's Petition for Writ of Habeas Corpus  
18 (Doc. 1), construed as a civil rights complaint, is **DISMISSED with prejudice**, thereby  
19 terminating this case. The Clerk of the Court shall enter judgment accordingly.

20 **IT IS FURTHER ORDERED** that a Certificate of Appealability and leave to  
21 proceed in forma pauperis on appeal are **DENIED** because Petitioner has not made a  
22 substantial showing of the denial of a constitutional right.

23 DATED this 10<sup>th</sup> day of August, 2010.

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26 Stephen M. McNamee  
27 United States District Judge  
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